

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

INTEROCEAN COAL SALES, LDC,

Plaintiff,

v.

EVONIK TRADING GmbH, an alien
corporation, EVONIK DEGUSSA
CORPORATION, an Alabama corporation,
EVONIK INDUSTRIES, AG, an alien
corporation and EVONIK STEAG GmbH, an
alien corporation,

Defendants.

CIVIL ACTION 11cv0940 (NRB)

NOTICE OF MOTION TO DISMISS
PURSUANT TO RULE 12(b)(6)

Oral Argument Requested

Filed: March 28, 2011

Opposition Due: April 11, 2011

Reply Due: April 18, 2011

TO: ALL COUNSEL OF RECORD

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law and Declaration of Patrick J. Hughes, Esq. (with attached exhibit), Defendant Evonik Degussa Corporation, by and through its counsel of record, Connell Foley LLP, respectfully moves this Court pursuant to Rule 12(b)(6), Fed. R. Civ. P., for an order dismissing all claims against it.

PLEASE TAKE FURTHER NOTICE that Evonik Degussa Corporation requests oral argument on this motion.

DATED: March 28, 2011

Respectfully yours,
CONNELL FOLEY LLP

By: /s/ Patrick J. Hughes

Patrick J. Hughes

A Member of the Bar of This Court

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Attorneys for Defendant

Evonik Degussa Corporation

CERTIFICATE OF SERVICE

I certify that on the 28th day of March 2011, I served the foregoing Notice of Motion, Memorandum of Law, Declaration of Patrick J. Hughes, Esq. (with attached exhibit), upon all parties by the Court's ECF system, and upon the following counsel by email:

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/s/ Patrick J. Hughes
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